

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

**THURSDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND FOUR**

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, CHIEF JUSTICE

and

HON'BLE SRI JUSTICE M.NARAYANA REDDY

WRIT APPEAL No.2194 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 02/12/2004 in W.P. No.19548 OF 2004 on the file of the High Court.)

Between:

Sri Rajendra Prasad Goel,

S/o late Sri Ramchander Goel,
R/o Plot No.45, Bapu Bagh Colony,

P.G.Road, Secunderabad-500 003.

..... APPELLANT

AND

1 M/S.The Agrasen Co.operative Urban Bank Ltd.,

15-2-391/392/1, Siddiamber Bazar,
Hyderabad represented by its General Manager/CEO.

2 Deputy Registrar of Co.operative Societies/ Divisional

Cooperative Officer,
Golconda Division, Hyderabad.

- 3 A.P.Cooperative Tribunal rep., by its Chairman,
Chandra Vihar Buildings, Hyderabad.
- 4 M/s.Balaji Steel Syndicate rep., by its Proprietor
Sri Ramchander goel, died per L.Rs.
- 5 Sri Naval Kishore Goel, s/o late Sri Ramchander Goel,
R/o Flat No.106, Uma Towers, Sindhi Colony, P.G.Road,
Secunderabad-500 003.
- 6 Smt.Savitri Devi Goel, w/o Sri Rajender Kumar Goel,
R/o Plot No.45, Bapu Bagh Colony, P.G.Road,
Secunderabad-500 003.
- 7 Smt.Nirmala Bai, w/o Sri Naval Kishore Goel,
R/o Flat No.106, Uma Towers, Sindhi Colony, P.G.Road,
Secunderabad.

(Respondents No.2 to 7 are not necessary)

.....RESPONDENTS

Counsel for the Appellant : Sri SHYAM S.AGRAWAL

Counsel for the Respondents : GP FOR COOPERATION

Sri Rupendra Mahendra

The Court made the following :

ORAL JUDGMENT: (Per Hon'ble the Chief Justice)

Appellant's case before the A.P. Cooperative Tribunal, Hyderabad, was that he had not inherited any property of his deceased father against whom original award was passed, and taking that into consideration, the Cooperative Tribunal by its order dated 14-10-2004 stayed recovery proceedings against the appellant. The said order was challenged by the respondent bank in writ petition. Learned single Judge by order dated 02-12-2004 modified the stay order of the Tribunal passed in I.A.No.1250 of 2004 in C.T.A.No.282 of 2004 against respondents 2 to 5 in writ petition, subject to condition of depositing Rs.10 lakhs within four weeks from that date. Appellant is second respondent in writ petition. Since appellant has been also asked to deposit

Rs.10 lakhs, said order is under challenge on the ground that appellant could not have been asked to deposit Rs.10 lakhs as a condition precedent for hearing of the appeal when Cooperative Tribunal noticing the fact that he has not inherited any property of his deceased father, he cannot be made to pay the amount and award cannot be executed qua him and his property.

We have heard learned counsel for the parties. There is substance in what learned counsel for the appellant submits. In case the Cooperative Tribunal had passed an order noticing the fact that the appellant had not inherited any property of his deceased father, there is no lawful justification for the learned single Judge to give direction to the appellant also to deposit Rs.10 lakhs. As a matter of fact, the award cannot be executed personally qua the appellant or his property. Award can only be

executed against the property of the deceased against whom award was passed. As such, the impugned order passed against the appellant cannot be sustained.

Writ Appeal is accordingly allowed and impugned order is set aside making it clear that it would be open to the respondent bank to recover the amount only from the property of the deceased against whom the award was passed and not against the appellant or his property.

DEVINDER GUPTA, C.J.

M.NARAYANA REDDY, J

30-12-2004

bsc

.....REGISTRAR

To

1 The General Manager/CEO.

M/s Agrasen Co.operative Urban Bank Ltd.,

15-2-391/392/1, Siddiamber Bazar,
Hyderabad.

2 Deputy Registrar of Co.operative Societies/ Divisional

Cooperative Officer,
Golconda Division, Hyderabad.

3 A.P.Cooperative Tribunal rep., by its Chairman,
Chandra Vihar Buildings, Hyderabad.

4. 2 CCs to Govt. Pleader for Cooperation, High Court of A.P.

buildings, Hyderabad (OUT)

5. 2 CD copies

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